



State of Utah

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DEPARTMENT OF HUMAN SERVICES

ANN SILVERBERG WILLIAMSON
Executive Director

OFFICE OF LICENSING

Amanda Slater, Director
Janice Weinman, Assistant Director

AMENDED NOTICE OF AGENCY ACTION

Investigation 2019-OL-0071

TO: Ryan Santi, Sequel Vice President of Operations; Gena Palm, Sequel Executive Director.
FROM: Travis Broderick Office of Licensing Investigations.
DATE: May 9, 2019
RE: Red Rock Canyon School (RRCS) License # 54191 Notice of Agency Action.

Dear Ryan Santi,

This Letter serves as notice that the Utah Department of Human Services Office of Licensing is placing Care Youth Corporation-Red Rock, Sequel Youth Services of Red Rock Academy Residential Treatment Center licenses on Conditional Status effective immediately.

This action is taken pursuant to the Administrative Procedures Act, Title 63 G Chapter 4 and Utah Code 62A-2-112. Licensing is authorized to deny, place conditions on, suspend, or revoke a license and restrict or prohibit new admission in a program if the program fails to comply with the licensing rules, is involved with commission of any illegal act or fails to meet standards required to provide services and promote public trust, including by enabling the commission of abuse, neglect. Exploitation, harm, mistreatment or fraud.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-19-5 Staffing.

A minimum of two staff on duty and, a staff ratio of no less than one staff to every four consumers shall exist at all times, except nighttime sleeping hours when staff may be reduced.

Violation 1: On several occasions the required 1 to 4 ratio of staff to clients was not met, including on the day of the "riot" as defined in Utah Code Sec. 76-9-101(1). Understaffing has negatively impacted the program's ability to address violence and sexual misconduct that has occurred within the program. Some staff and residents reported feeling unsafe in the program.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-2-2. Core Rules Program Administration.

All programs which serve minors or vulnerable adults shall submit identifying information for background screening of all adult persons associated with the licensee and board members who have access to children and vulnerable adults in accordance with R501-14 and R501-18.

Violation 2: Records and documents reviewed indicate on at least two occasions staff have worked on site with youth after expiration of their Background Screenings.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-1-9 General Provisions. Investigation of Alleged Violations.

Critical incidents that involve one or more clients and/or on-duty staff in a licensed setting or under the direct responsibility and supervision of the program shall be reported by the licensee as follows:

- (i) Report shall be made to DHS and legal guardians of involved clients within one business day.*
- (ii) Initial critical incident reports to DHS shall include the following in writing: (A) name of provider and all involved staff, witnesses and clients; (B) date, time, and location of the incident, and date and time of incident discovery, if different from time of incident; (C) descriptive summary of incident; (D) actions taken; and (E) actions planned to be taken by the program at the time of the report; (F) identification of DHS contracts status, if any*

Violation 3: Initial written critical incident report related to the riot that occurred on April 28, 2019 was not submitted to the Department of Human Services until May 1, 2019.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-2-7 Core Rules. Behavior Management.

No management person shall authorize or use, and no staff member shall use, any method designed to humiliate or frighten a consumer.

Violation 4: On April 28, 2019 during the riot, and on several other occasions staff made humiliating and degrading comments to residents of the program which caused behaviors to escalate dangerously in an already tense situation.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-2-9 Core Rules. Personnel Administration.

The program shall follow a written staff to consumer ratio, which shall meet specific consumer and program needs. The staff to consumer ratio shall meet or exceed the requirements set forth in the applicable categorical rules as found in R501-3, R501-7, R501-8, R501-11, and R501-16.

Violation 5: As noted above RRCS is in violation of failing to meet the required minimum staffing of 1 staff to every 4 clients. Staff, and middle management, have requested additional staff in order to meet

the needs of the program. According to staff and middle management, who deal with the day-to-day operations of the program, these needs require additional staff to maintain safety of the program. Upper management has responded to these requests by offering overtime. This response has been insufficient to address the needs reported by staff and middle management, and has actually exacerbated the problems arising from these needs. Staff overtime has led to staffing ratios that, at times are already insufficient, being filled with staff who are physically, emotionally and mentally exhausted.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-2-7 Core Rules. Behavior Management.

No management person shall authorize or use, and no staff member shall use nor permit the use of physical restraint with the exception of passive physical restraint. Passive physical restraint shall be used only as a temporary means of physical containment to protect the consumer, other persons, or property from harm. Passive physical restraint shall not be associated with punishment in any way.

Violation 6: Residents have been permitted to physically restrain other residents. Specifically, on April 28, 2019, during the riot, a resident ["Resident #1"] was engaging a staff member in a physical altercation. Another resident ["Resident #2"] intervened in the altercation and physically restrained Resident #1 by putting him in a choke hold. The staff member who was engaged in the physical altercation did nothing to intervene after Resident #1 was restrained by Resident #2 in the staff member's presence. Resident #2 reported that he restrained Resident #1 until Resident #1 "went to sleep". Interviews conducted with residents indicate that this type of resident-on-resident restraint is a common occurrence.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-1-11 General Provisions for Licensing. Licensing Code of Conduct and Client Rights.

Clients have the right to:

- (a) be treated with dignity;*
- (b) be free from potential harm or acts of violence;*
- (c) be free from discrimination;*
- (d) be free from abuse, neglect, mistreatment, exploitation, and fraud;*
- (e) privacy of current and closed records;*
- (f) communicate and visit with family, attorney, clergy, physician, counselor, or case manager, unless therapeutically contraindicated or court restricted;*
- (g) be informed of agency policies and procedures that affect client or guardian's ability to make informed decisions regarding client care, to include:*
 - (i) program expectations, requirements, mandatory or voluntary aspects of the program;*
 - (ii) consequences for non-compliance;*
 - (iii) reasons for involuntary termination from the program and criteria for re-admission;*
 - (iv) program service fees and billing; and*
 - (v) safety and characteristics of the physical environment where services will be provided.*

Violation 7: Throughout the course of the investigation, Licensing Investigators observed through video footage, incident reports and interviews conducted with residents, numerous accounts of mistreatment, abuse, acts of violence and overall disrespect toward residents.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-19-7 Residential Treatment Programs. Physical Facilities. *Building and Grounds*

1. *The program shall ensure that the appearance and cleanliness of the building and grounds are maintained.*
2. *The program shall take reasonable measures to ensure a safe physical environment for consumers and staff.*

Violation 8: Licensing Investigators toured the grounds and buildings and found numerous items that could be used as weapons. Items included pieces of block, rocks, pavers, sticks, broken tile, plastic air conditioner covers easily removed, windows easily broken and glass used as weapon to harm others or oneself. Investigators also observed cigarette butts and garbage strewn across the recreation yard. In addition, investigators observed harmful chemicals in aerosol cans which clients were huffing to get high.

The Office of Licensing has noted Violation of the following Administrative Rule:

501-2-2 H. Interstate Compact Laws

The program shall comply with all applicable National Interstate Compact Laws.

Violation 9: RRCS has failed to follow Interstate Compact Laws by allowing residents into their program without having an approved ICPC.

Conditions Being Placed On License: Pursuant to Utah Administrative Rule 501-1-7-4: The Office of Licensing may place a license on conditional status. A conditional status allows a program that is in the process of correcting administrative rule violations to continue operations subject to conditions established by the Office of Licensing.

To have your license removed from Conditional Status, the following conditions must be resolved to the satisfaction of Licensing:

1. Client capacity will be reduced to 60 in order to meet staffing ratios and supervision requirements. In accordance with Interstate Compact Regulation No 4: all out of state clients who are currently in the program without an approved ICPC will be returned to the sending state or parent/guardian within 5 days of receipt of this notice. Additionally, return of any remaining clients over the new capacity of 60 will be initiated within 5 day time frame.

Amendment: While continuing efforts to reach a maximum capacity of 60, the program will communicate daily with the Utah ICPC Office and Office of Licensing to justify extending the 5-day return time frame when identified health and safety needs prohibit a rapid

transition. Continual progress will be made toward reaching the capacity identified in this Notice. If the program achieves a maximum capacity of 68 and demonstrate that staffing ratios have consistently supported this capacity during this transition phase, maximum capacity may be set at 68.

2. Immediately Notify State Agencies that have clients placed in the program of this NAA.
3. Admission Restrictions: accept no new clients while the NAA is in effect or until the Office of Licensing expresses in writing that admissions may resume.
4. Immediately retrain all staff in de-escalation skills, physical intervention, behavior management and Abuse.
5. Immediately require all staff to read, review and sign the DHS Code of Conduct.
6. Repair all holes in walls, broken tile, water leaks and appropriate measures to eliminate harm to clients due to broken windows and other physical facility deficits.
7. Install locks on all cabinets meant for chemical storage.
8. Remove large rocks, pavers and any loose blocks throughout the landscaping that could potentially be used as a weapon or projectile.
9. Grounds must be kept clean and free of graffiti, tagging and garbage.
10. All doors must be kept locked at all times unless being used.
11. Update staffing ratios policy and identify how the program will meet ratios each day.
12. Update admissions criteria policy and procedures and identify behaviors that are beyond RRCS scope to work with and behaviors/situations that would be grounds for discharge.
13. Retrain all staff on critical incident reporting and incident report writing.
14. Immediately notify Clients and their Legal Guardians of this action and submit proof of compliance with this requirement to the Office of Licensing no later than 5 business days from receipt of this notice.
15. Immediately post this notice in a prominent location on-site and on the homepage of all program operated websites, including social media pages.
16. RRCS will audit all current and prospective employee files for expired or missing background screenings. All staff will either have a current clearance or an application for clearance submitted to Licensing within one week of receipt of this letter. Staff without a current cleared background screening must not work unsupervised with residents and must remain with a background cleared staff at all times until their background screening clears. In addition RRCS will provide notification to licensing when an employee quits or is terminated from employment.

No other licenses shall be granted to the program while on Conditional status. Conditional status on this license will be removed no sooner than 90 days from the date of this Notice unless Licensing can verify compliance on a sooner date.

Licensing reserves the right to amend this Notice of Agency Action.

In accordance with the Department of Human Services Administrative Hearing Procedures (Title 497), you may request an administrative hearing if there is a disputed issue of fact. There is no issue of fact if you present facts that on their face establish the right of Licensing to take the action, or if the facts do not conflict with the facts relied upon by Licensing in taking its action. Pursuant to Rule 497-100, if you choose to request an administrative hearing to appeal a disputed issue of fact, you must submit your request of appeal to the Office of Licensing, in writing, within 10 working days of receipt of this letter. This adjudicative proceeding, if requested and granted, shall be conducted informally.

Pursuant to Rule 501-1-10-2(1): (1) Pending an appeal of a revocation, suspension or conditional license that restricts admissions, licensee shall not accept any new clients as outlined on the Notice of Agency Action, or while an appeal of a Notice of Agency Action penalty is pending without prior written authorization from the Office.

You can access the; "Request for an Administrative Hearing" form in the Facility Forms section of our website: www.hslic.utah.gov.

All correspondence concerning this action should be addressed to:

Gayle Luciano
Utah Department of Human Services
Office of Licensing
195 North 1950 West
Salt Lake City, Utah. 84116
Please reference the program and site name on all correspondence.

Sincerely,



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